

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rita Bobe	Team: Team # 3	CCRB Case #: 200507209	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 06/25/2005 4:30 AM, Sunday, 06/26/2005	Location of Incident: Inside the 101st Precinct stationhouse	Precinct: 101	18 Mo. SOL 12/25/2006	EO SOL 12/25/2006	
Date/Time CV Reported Mon, 06/27/2005 1:39 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 06/27/2005 1:39 PM		
Complainant/Victim	Type	Home Address			
Subject Officer(s)	Shield	TaxID	Command		
1. SGT Carlos Fabara	01279	922317	101 PCT		
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. POM Joseph Zappia	13701	936014	101 PCT		
Officer(s)	Allegation			Investigator Recommendation	
A.SGT Carlos Fabara	Discourtesy: Sgt. Carlos Fabara spoke rudely to § 87(2)(b)				

Synopsis

On June 25, 2005, § 87(2)(b) traveled to the 101 Precinct stationhouse to pick up her son's belongings because he had been arrested. § 87(2)(b) approached Sgt. Fabara and asked him to see the warrant for her son's § 87(2)(b). § 87(2)(b) forgot her eyeglasses and asked Sgt. Fabara to read it to her and he did. Sgt. Fabara then stated to § 87(2)(b) "You should tell your son who he should hang around with." § 87(2)(b) felt that this was inappropriate and asked Sgt. Fabara for his badge number. Sgt. Fabara stepped around the desk and got closer to § 87(2)(b) for her to see his badge number. Sgt. Fabara asked § 87(2)(b) if she had a pen to write it down and she informed that she did not. Sgt. Fabara stated: "Well, you can't use mine." (Allegation A) Squint-eyed, § 87(2)(b) managed to obtain Sgt. Fabara's badge #1279 and memorized it. § 87(2)(b) described Sgt. Fabara's tone as "very angry." (Allegation A)

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) a § 87(2)(b)-old black woman, filed a complaint with the CCRB via telephone on June 27, 2005 (encl. 2 A). § 87(2)(b) agreed to mediation when Inv. Nespoli offered it to her during the intake phone call (encl. 2 B). The case was referred to ADR on July 7, 2005 (encl. 5 D-E). § 87(2)(b) informed ADR that she was unable to come to the CCRB due to health reasons and they arranged to send her a taxi. On October 31, 2005, § 87(2)(b) decided not to pursue mediation and informed ADR that she wanted an investigation. The case was returned from ADR and reassigned to Inv. Bobe-Saleh. The investigator made arrangements to meet § 87(2)(b) at the Queens Public Library and confirmed the date and time of the interview. § 87(2)(b) asked the investigator to call her when she was 15 minutes away from the library on the day of the interview in order to give her enough time to walk the three blocks from her home. On November 18, 2005, the investigator contacted § 87(2)(b) 35 minutes prior to arriving to the library. § 87(2)(b) tried to get off the phone quickly stating that she was having an asthma attack and was going to get dressed. § 87(2)(b) asked the investigator to call her back when she was ten minutes away from the library since this is the amount of time she needed to get to the library. The investigator arrived at the library and attempted to contact § 87(2)(b) 6 more times with no answer. On the last call, § 87(2)(b) picked up the phone and stated that she couldn't leave the house until her son got home to let his sister in the house. The investigator waited an additional 40 minutes at the library. Upon her arrival, the investigator observed § 87(2)(b) walk into the library at a pretty fast pace with no impairment to her mobility. § 87(2)(b) stated that she had other things she needed to do including keeping another appointment and attempted to leave the library. The investigator explained to § 87(2)(b) that this was not going to take long and that the investigator had traveled to Queens specifically for the scheduled interview. § 87(2)(b) agreed to stay for the interview.

Please note that during the interview § 87(2)(b) could not recall the time that she was at the stationhouse, but guessed it to be at 1:30 AM. § 87(2)(b) asked the investigator to refer to the time that she initially stated when she filed her complaint over the telephone to the CCRB. The investigation shows that § 87(2)(b)'s initial statement is correct, placing her at the stationhouse at 4:30 AM on June 25, 2005.

§ 87(2)(b) was interviewed at the Queens Public Library on November 18, 2005 (encl. 2 C-E). § 87(2)(g)

On June 25, 2005, at approximately 1:39 AM, § 87(2)(b) went to the 101 Precinct on request that she pick up her son's belongings since he had been arrested for § 87(2)(b). § 87(2)(b) encountered the subject officer, Sgt. Fabara (identified by badge and the CCRB investigation) when she got to the stationhouse. § 87(2)(b) asked Sgt. Fabara if she could see the warrant for her son. When Sgt. Fabara held it up for § 87(2)(b) to read, she realized that she had left her glasses at home and could not read it. § 87(2)(b) asked Sgt. Fabara to read the warrant to her and he did. Sgt. Fabara then stated: "You should tell your son who he should hang with." § 87(2)(b) felt this was inappropriate since her son is § 87(2)(b) old. § 87(2)(b) asked Sgt. Fabara for his badge number. Sgt. Fabara asked § 87(2)(b) if she could read his badge

number and § 87(2)(b) told him that she did not have her eyeglasses with her to do so. Sgt. Fabara stepped around from the desk, with one hand on his cuffs and approached leaving a distance of 4 feet between them and § 87(2)(b) feared that he was going to arrest her. § 87(2)(b) asked him if she could write down his badge number. Sgt. Fabara asked § 87(2)(b) if she had a pen to write down his badge number and she replied no. Sgt. Fabara then stated to § 87(2)(b) “Well, you can’t use mine.” PO Zappia (identified by physical description and the CCRB investigation) was also present and was helpful in that he wrote down Sgt. Fabara’s badge number. However, Sgt. Fabara stopped PO Zappia from giving it to § 87(2)(b). § 87(2)(b) described PO1’s tone as “very angry.” § 87(2)(b) felt like he was treating her like she was stupid because she’s black. § 87(2)(b) also felt that his statement about the usage of the pen was very rude.

§ 87(2)(b) states that she has seen Sgt. Fabara around the neighborhood on numerous occasions, “harassing.” § 87(2)(b) has not interacted with Sgt. Fabara since the date of the incident.

Results of Investigation

Officer Statements

Sgt. Carlos Fabara: Interviewed at the CCRB on December 30, 2005 (Encl. 3 A-D)

On June 25, 2005, Sgt. Fabara worked from 11:05 PM to 7:55 AM and was assigned to the 1st Platoon. Sgt. Fabara was in uniform and does not recall who his partner was on this day nor does he have any entries in his memobook regarding this incident (encl. 3 A-B).

Sgt. Fabara stated that he was out on patrol and would have had to come back for arrest processing at the station house. The investigator described the incident in detail but Sgt. Fabara could not recall having any interaction with § 87(2)(b).

PO Joseph Zappia: Interviewed at the CCRB on January 9, 2006 (Encl. 3 E-J)

On June 25, 2005, PO Zappia worked from 11:15 PM to 7:50 AM. PO Zappia was assigned to Sgt. Operator with Sgt. Fabara. PO Zappia was in uniform and assigned to RMP # 2410. PO Zappia had the following entry written on the fly-page of his memobook regarding this incident (encl. 3 E-H):

I § 87(2)(b) § 87(2)(b) am accepting the property of my son § 87(2)(b) and his friend Monger, § 87(2)(b) for safekeeping. My sons property consists of 1 white cap w/camouflage, 1 black Motorola Nextel cell phone, 1 gray head wrap, 1 box of Newport’s, 1 set of keys and 1 blue lighter. Mario Mongers property consists of 1 photograph, 1 box of Newport’s, 1 silver and black Nextel cell phone, 1 black phone adapter, 1 red lighter, 1 white metal chain and 1 DKNY white metal watch.

On June 25, 2005, § 87(2)(b) went to the 101 Precinct and approached PO Zappia who was standing near the desk to collect her son, § 87(2)(b)’s and his friends’ property. Officer Zappia wrote the above entry in his memobook and § 87(2)(b) signed for it. PO Zappia recalls that § 87(2)(b) asked him for his shield number and he gave it to her. However, PO Zappia did not recall whether he wrote it down or said it verbally for § 87(2)(b). PO Zappia did not observe § 87(2)(b) speaking with Sgt. Fabara, who was behind the desk. PO Zappia does not recall anyone else being at the stationhouse during this time. PO Zappia described § 87(2)(b)’s demeanor as curious as to what the situation was with her son. PO Zappia does not recall § 87(2)(b) being angry with him or anyone else.

Police Documents

Roll Call: The 101 Precinct Roll Call for Tour 1 on June 25, 2005, shows that Sgt. Fabara was patrol supervisor and PO Zappia was the Sergeant’s operator. They were both assigned to vehicle # 2410 (encl. 4 A-B).

Command Log: The 101 Precinct's Command Log for Tour 1 on June 25, 2005 has two arrest entries logged in for § 87(2)(b) and his friend § 87(2)(b). The arresting officer in both cases was PO Zappia. There were no entries in the command log regarding § 87(2)(b)'s appearance at the stationhouse (encl. 4 C).

Police Officer CCRB Substantiation History

Sgt. Fabara has received charges from the CCRB for failing to make a memobook entry in case 200301054 with no NYPD disposition as of present (encl. 1 A-B).

CCRB History

§ 87(2)(b) has no prior cases with the CCRB (encl. 1 C).

Conclusions and Recommendations

Officer Identification

§ 87(2)(b) obtained Sgt. Fabara's shield number during the incident and provided this information when she initially contacted the CCRB. § 87(2)(b) described Sgt. Fabara as a white/hispanic male, between the ages of 25-35 years old, slim build, spiky hair and around 6 feet tall. § 87(2)(b) described the 2nd officer as a white male, 5'4, medium build, short brown hair and younger at the age of 25 years old. The physical descriptions and the badge number provided by § 87(2)(b) clearly indicate that Sgt. Fabara is the subject officer. The command log identifies PO Zappia as the arresting officer for § 87(2)(b)'s son and the roll call shows that PO Zappia's partner is Sgt. Fabara. Furthermore, PO Zappia's statement confirms that Sgt. Fabara was behind the desk at the stationhouse and that they had come back to the stationhouse to process arrests. Although Sgt. Fabara could not recall whom his partner was on the date of the incident, PO Zappia's statement and the roll call confirms Sgt. Fabara's presence.

§ 87(2)(g)

Undisputed Facts

On June 25, 2005, § 87(2)(b) went to the 101 Precinct to pick up her son's belongings because he had been arrested for § 87(2)(b) r. § 87(2)(b) spoke with PO Zappia.

Disputed Facts

§ 87(2)(g)

Credibility

§ 87(2)(g)

§ 87(2)(g)

Allegation not pleaded

§ 87(2)(g)

Allegation A: Sgt. Fabara spoke rudely to § 87(2)(b)

§ 87(2)(b) stated that Sgt. Fabara's remark that she couldn't use his pen to write down his badge number and his tone at the time were rude. Sgt. Fabara could not recall the night in question. PO Zappia recalled his encounter with § 87(2)(b) but did not observe § 87(2)(b) speaking with Sgt. Fabara when she was at the stationhouse picking up her son's belongings. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: